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Message Text

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ACTION STR-07

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
OMB-01 DOE-15 /126 W
----------116861 140138Z /15
R 121525Z JUL 78
FM AMEMBASSY COPENHAGEN
TO SECSTATE WASHDC 6826
INFO EC COLLECTIVE
USMISSION GENEVA

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USMTN

E.O.: 11652: N/A
TAGS: ETRD, GATT, DA
SUBJ: COMMERCIAL COUNTERFEITING

REFS: (A) STATE 167575; (B) COPENHAGEN 4362

1. ALTHOUGH DENMARK HAS RATIFIED THE PARIS INDUSTRIAL PROPERTY CONVENTION, DANISH TRADEMARK ACT NO. 211 OF JUNE 11, 1959, DOES NOT PROVIDE EITHER FOR SEIZURE OR FORFEITURE OF PRODUCTS WITH BOGUS TRADEMARKS.

2. THE ESTABLISHED PROCEDURE IS THAT THE INJURED PARTY NOTIFY THE INFRINGEMENT OF TRADEMARK RIGHTS TO THE COURT, WHICH THEN DECIDES WHAT ACTION SHOULD BE TAKEN. IF INFRINGEMENT OF RIGHTS IS JUSTIFIED, THE TRADEMARK ACT STATES THAT ACTION MAY INCLUDE ONE OF THE FOLLOWING:

A. REMOVAL OF BOGUS TRADEMARK FROM PRODUCTS,
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B. POSSIBLE DESTRUCTION OF PRODUCTS BEARING BOGUS TRADEMARK, AND
C. RELEASE OF PRODUCTS TO THE INJURED PARTY WITH OR WITHOUT COMPENSATION FOR DAMAGES.

3. BESIDES THE TRADEMARK ACT, THE DANISH ADMINISTRATION OF JUSTICE ACT (MINISTRY OF JUSTICE ORDER NO. 1, JANUARY 2,

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1975) PROVIDES FOR A PROHIBITIVE INJUNCTION BY THE BAILIFF
IF SEVERE INFRINGEMENT OF RIGHTS IS PRESENT. SUCH ACTION
MUST BE NOTIFIED IMMEDIATELY TO A COURT TO OBTAIN ITS RULING.
IN MANY INSTANCES THE INJURED PARTY MUST PROVIDE BAIL UNTIL
THE BAILIFF'S ACTION IS PROCESSED BY THE COURT.

4. IN ORDER TO PROTECT THE CONSUMER, THE DANISH MARKETING ACT
(NO. 297 OF JUNE 14, 1974) AUTHORIZES THE CONSUMER OMBUDSMAN
TO PROHIBIT THE SALES OR DISTRIBUTION OF PRODUCTS BEARING
A BOGUS TRADEMARK. SUCH ACTION, HOWEVER, MUST ALSO BE NOT-
IFIED IMMEDIATELY TO A COURT FOR A RULING.
DEAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COUNTERFEITING
Control Number: n/a
Copy: SINGLE
Draft Date: 12 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978COPENH04498
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780288-0322
Format: TEL
From: COPENHAGEN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780771/aaaachju.tel
Line Count: 74
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 19714977-c288-dd11-92da-001cc4696bcc
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Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 167575, 78 COPENHAGEN 4362
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2042561
Secure: OPEN
Status: NATIVE
Subject: COMMERCIAL COUNTERFEITING
TAGS: ETRD, DA, GATT
To: STATE USMTN
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/19714977-c288-dd11-92da-001cc4696bcc
Review Markings:
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